IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.GIRI

TUESDAY, THE 13TH NOVEMBER 2007 / 22ND KARTHIKA 1929

WP(C).No. 10139 of 2005(F)

PETITIONER:

E. KUNHIMAYIN, EXTENSION OFFICER (IRD),
BLOCK OFFICE, MANANTHAVADY, WAYANAD DIST.,
(SHAHS - ELEYADUTH, KAITHAKKAL,
PANAMARAM POST PIN-670 721).

BY ADV. SMT.T.D.RAJALAKSHMI
SRI.E.R.VENKATESWARAN
SRI.E.A.NIZAMUDDIN

RESPONDENTS:
----

1. STATE OF KERALA, REPRESENTED BY
CHIEF SECRETARY TO GOVERNMENT,
SECRETARIAT, THIRUVANANTHAPURAM.

2. THE COMMISSIONER FOR RURAL
DEVELOPMENT, THIRUVANANTHAPURAM.

BY GOVERNMENT PLEADER SRI.NANDAKUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 13/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C) NO.10139/2005

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE GO (RT) NO.130/90/RDD DT. 9 .4.90.

EXT.P2:- COPY OF THE GO(RT) NO.463/91/RDD DT. 4.12.91.

EXT.P3:- COPY OF THE ORDER NO.ESTT AS.39053/90/CRD DT. 21.2.94 PASSED BY THE 2ND RESPONDENT.

EXT.P4:- COPY OF THE JUDGMENT IN OP. NO.5113/94 DT. 3.3.99.

EXT.P5:- COPY OF THE G.O. (RT) NO.1769/03/LSGD DT. 22.5.03.

EXT.P6:- COPY OF THE GO (RT) NO.2722/04/LSGD DT. 3.8.04.

/TRUE COPY/

P.A. TO JUDGE

tss

V. GIRI ,J.

WP(C).NO. 10139 of 2005

Dated this the 12th day of November, 2007

JUDGMENT

Petitioner was originally suspended from service along with the Block Development Officer as per Ext.P1 order. Later they were reinstated in service under Ext.P2 after revoking the suspension. By Ext.P3 order, disciplinary proceedings were finalised finding that the charges levelled against the petitioner and the other delinquent officer stands proved and a bar of one increment with cumulative effect was imposed. There was also a direction under Ext.P6 to recover the amount of Rs.3,32,552/- equally from the two delinquent officers.

2. One of them approached this Court with O.P.5113/1994 which was disposed of under Ext.P4 judgment setting aside Ext.P3 order, essentially on the premise that the petitioner therein had already retired from service. Be that as it may, subsequently by Ext.P5 government order disciplinary action against Sri.K.G.Kuttikrishnan, the former Block Development Officer was finalised exonerating him from the charges levelled against him. Petitioner sought for a similar treatment referring to Ext.P4 judgment and Ext.P5 government order.

By Ext.P6 order Government ordered that fresh disciplinary proceedings will be initiated against the petitioner and it should be finalised expeditiously. Petitioner challenges Ext.P6 herein essentially on the ground that the enquiry allegedly relates to an incident which had taken place in 1990. In my view, since Ext.P6 order confers a benefit on the petitioner cancelling an earlier punishment imposed on him under Ext.P3, the petitioner is not entitled to challenge one portion of Ext.P6. Counsel for the petitioner submits that Ext.P6 is challenged only to the extent to which it orderes fresh disciplinary proceedings against the petitioner (learned Senior Government Pleader points out that as a matter of fact Ext.P6 has been challenged in its entirety in the writ petition). Be that as it may, I am not inclined to interfere with Ext.P6, in as much as that it only directs that disciplinary action against the petitioner will be finalised. It is mentioned in Ext.P6 itself that consequent upon the finalisation of the disciplinary proceedings, orders regarding the treatment of the suspension period will also be issued.

3. In the facts and circumstances of the case, there will be a direction to the first respondent to finalise the disciplinary action against the petitioner as per Ext.P1, pursuant to Ext.P6, within a

period of three months from the date of receipt of a copy of this judgment.

Subject to this direction, the writ petition is disposed of.

V. GIRI, JUDGE

css/